

Appl. No. 09/800,645  
Amdt. dated July 1, 2003  
Reply to Office Action of April 3, 2003

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TC 1700

**In the United States Patent and Trademark Office**

Applicants:	Troy Michael Runge et al.	Docket	16,670
Serial No.:	09/800,645	TC/A.U.:	1731
Confirmation No:	5221	Examiner:	M. Halpern
Filed:	March 7, 2001	Date:	July 1, 2003
For:	METHOD FOR APPLYING CHEMICAL ADDITIVES TO PULP DURING THE PULP PROCESSING AND PRODUCTS MADE BY SAID METHOD		

Commissioner For Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**RESPONSE**

Sir:

Pursuant to 37 C.F.R. § 1.111 and in response to the Office Action mailed April 3, 2003 (Paper No. 14), the following remarks are submitted for your consideration.

**R marks/Arguments** begin on page 2 of this paper.

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### **REMARKS/ARGUMENTS**

The application now contains Claims 1 - 6, 8 - 19, and 22 - 33. Reconsideration of the present application in view of the following remarks is respectfully requested.

#### **A. Double Patenting (Provisional)**

Claims 1 and 22 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being obvious over claims in co-pending application Serial No. 09/802,529. It is Applicants' intention to submit a terminal disclaimer in compliance with 37 C.F.R. § 1.321(b) for the present application in the event the present application is likely to issue after issuance of the above-referenced co-pending application and the rejection is maintained.

#### **B. Rejection Of Claims 1 - 2, 4 - 5, 8 - 19, 22 - 23, 25, 27 - 33 Under 35 U.S.C. § 102 (b)**

Claims 1 - 2, 4 - 5, 8 - 19, 22 - 23, 25, 27 - 33 stand rejected under 35 U.S.C. § 102 (b) as being anticipated by U.S. Patent No. 4,853,086 issued on August 1, 1989 to Graef (hereinafter referred to as the "Graef reference"). Applicants respectfully traverse the rejection with respect to these claims as pending.

The Examiner stated that the Graef reference discloses a method of making a fluff pulp in which the partially dried web is treated with chemical additives, such as, glycol and aldehyde, and then the web is dried. The Examiner also stated that the Graef reference is silent with respect to the percentage of retention of the additives after redispersing but stated that the property was inherent because the same type of additives are added to the same type of fibers at the same rate and at the same location as claimed in the present invention. The Examiner also stated that the Graef reference teaches the use of the fibers in towels, stating this implies that the fibers need to be dispersed/re-dispersed in water for the making of the product.

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Applicants' claimed structure is not anticipated by the Graef reference. More specifically, the Graef reference does not disclose use of the treated fibers in towels. The Graef reference states "The product is especially useful for making articles such as disposable diapers and sanitary napkins." (Col. 1, lines 12 - 13.) "Besides infant diapers these include sanitary napkins and tampons, adult incontinent pads and numerous other products such as bed pads, wipes and towelettes." (Col. 1, lines 19 - 22.) Applicants respectfully point out that the term "towelettes" is applied to products similar to wipe products for a pre-moistened product used to clean hands such as those found in restaurants or airplanes. These products are typically made in similar fashion to wipes and do not typically go through the typical process used to manufacture traditional paper towels, where fibers would be redispersed. The Graef reference further states: "The method is especially directed to the formation of a sheeted pulp product that can be mechanically formed into a fibrous fluff having increased water absorption rate and water holding capacity." (Col. 1, lines 8 - 12.) "It is an object of the present invention to provide a method of making a resilient hydrophilic cellulose pulp which can be mechanically formed into a fibrous fluff having an increased water absorption rate." (Col. 4, lines 25 - 28.) "The fluff is made by milling the sheets in the convertor's plant at the point of manufacture of the ultimate absorbent product." (Col. 4, lines 65 - 68.) These statements in conjunction with the teachings of the Graef reference teach that the pulp is a fluff pulp which would not be redispersed in water. Accordingly, independent Claims 1 and 22 as well as dependent claims 2, 4 - 5, 8 - 19, 23, 25, 27 - 33 are believed to be novel and nonobvious over the cited reference.

The Graef reference does not teach the redispersion of the pulp fibers. The Graef reference teaches the use of fluff fibers which are mechanically formed into a fibrous fluff, thereby avoiding a redispersion step. As the Graef reference does not suggest nor teach the present invention, the Applicants' claimed invention therefore contains novel elements neither disclosed nor suggested by the Graef reference. Consequently, the Section 102(e) rejection should be withdrawn.

**C. Rejection Of Claims 3, 6, 24, and 26 Under 35 U.S.C. § 103**

Claims 3, 6, 24, and 26 stand rejected under 35 U.S.C. § 103 as being obvious over the Graef reference. Applicants respectfully traverse the rejection with respect to these claims as pending.

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The Examiner states that the Graef reference discloses a method of making a fluff pulp in which the partially dried web is treated with chemical additives, such as, glycol and aldehyde, and then the web is dried. The Examiner also stated that the Graef reference is silent with respect to the percentage of retention of the additives after redispersing but stated that the property was inherent because the same type of additives are added to the same type of fibers at the same rate and at the same location as claimed in the present invention. However, the Examiner points out that the Graef reference fails to disclose that the chemically treated fibrous web includes a gradient or a z-directional gradient of the chemical additive but states that it would have been obvious to one skilled in the art, at the time the invention was made, to include a gradient or a z-directional gradient of the chemical additive, since the chemical is absorbed into the fibers and the absorption of the chemical additive into the web is occurring in all directions including the z-direction. The Examiner also stated that the Graef reference teaches the use of the fibers in towels, stating this implies that the fibers need to be dispersed/re-dispersed in water for the making of the product.

Applicants submit that the Graef reference does not establish a prima facie case of obviousness. The Graef reference states "The spray from the nozzles of the shower provided even and uniform coverage of the pump sheet. It is necessary to have uniform distribution through the sheet as well as across the sheet." (Col. 5, lines 65 - 68.) Applicants submit that the Graef reference would not work as described or obtain the recited benefits if so modified in the present invention. Accordingly, the claims 3, 6, 24, and 26 are believed to be novel and nonobvious over the cited references.

Ecolochem Inc. v. Southern California Edison Co., 56 U.S.P.Q.2d 1065 (Fed. Cir. 2000): We have previously held that "[t]he suggestion to combine may be found in explicit or implicit teachings within the references themselves, from the ordinary knowledge of those skilled in the art, or from the nature of the problem to be solved." *WMS Gaming, Inc. v. International Game Tech.*, 184 F.3d 1339, 1355, 51 USPQ2d 1385, 1397 (Fed. Cir. 1999). However, there still must be evidence that "a skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the elements from the cited prior art references for combination in the manner claimed." *In re Rouffet*, 149 F.3d at 1357, 47 USPQ2d at 1456; see also *In re Werner Kotzab*, 217 F.3d 1365, 1371, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000) ("[A] rejection cannot be predicated on the mere identification...of individual components of claimed limitations. Rather, particular findings must be made as to the reason the skilled artisan, with no knowledge of the

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claimed invention, would have selected these components for combination in the manner claimed.").

There must be some logical suggestion or motivation to justify a modification of the cited art reference. The Graef reference cited by the Examiner provide no impetus to arrive at Applicants' claimed invention, especially in view of the remarks made above regarding the Graef reference. Therefore, one skilled in the art, aware of the Graef reference would not have arrived at the claimed invention. Consequently, the Section 103(a) rejection should be withdrawn.

#### D. Conclusion

The application now contains Claims 1 - 6, 8 - 19, and 22 - 33 which are believed to be in condition for allowance. Applicants would like to thank the Examiner for the careful attention paid to the present application. Early allowance of the claims in view of the above remarks is earnestly requested.

Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

The undersigned may be reached at: (920) 721-7671.

Respectfully submitted,

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CERTIFICATE OF FACSIMILE TRANSMITTAL

I, Judy Garot, hereby certify that on July 1, 2003 this Response is being transmitted via facsimile to the United States Patent Office.

By: Judy Garot  
Judy Garot

**Kimberly-Clark**

K-C North  
401 North Lake Street  
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<b>To:</b>	<b>Name</b> Examiner M. Halpern	<b>Company</b> U.S.P.T.O., Examining Group 1731	<b>Fax Number</b> (703) 872-9310
<b>Subject:</b>	U.S.S.N. 09/800,645 Attorney Docket: 16,670		
<b>From:</b>	P. A. Charlier	<b>Page:</b>	1 of 7
<b>D pt:</b>	Legal	<b>Date:</b>	July 1, 2003
<b>Loc:</b>	K-C North	<b>Time:</b>	1:45 p.m.

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